

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE CHRISTOPHER PAXOS
Debtor

CASE No. 12-61280-RK
CHAPTER 11
JUDGE RUSS KENDIG

**ORDER GRANTING MOTION OF
CHRISTOPHER PAXOS TO SELL A PARCEL
OF REAL PROPERTY LOCATED AT 7237
BRYCEWOOD CIRCLE NW, NORTH
CANTON OH FREE OF ANY INTEREST OF
ANY ENTITY OTHER THAN THE ESTATE**

The matter before the Court is the motion of Christopher Paxos, Debtor in Possession ("Debtor") for an order pursuant to 11 U.S.C. §§ 102(1)(B)(i), 363(b) and (f), authorizing the sale of the property of the estate described below free of any interest of any entity other than the estate [Docket No. 77] ("Motion"). Five parties in interest filed responses to the Motion. The Office of the United States Trustee ("UST") [Docket No. 82] and Federal Deposit Insurance Corporation, as Receiver over Tennessee Commerce Bank [Docket No. 93] ("FDIC Receiver" and collectively "Objections"), opposed the sale alleging that the sale price was potentially inadequate and that the sale was to an insider party. Comerica Bank NA filed a limited objection [Docket No. 92] asking that the sale proceeds be placed in escrow. HSBC Bank USA N.A., as

Trustee for Wells Fargo Asset Securities Corporation, Mortgage Pass-Through Certificates Series 2006-8 (“HSBC”) and Wells Fargo Bank, N.A. (“Wells Fargo”) filed a response agreeing to the terms of the proposed sale on certain conditions set forth herein [Docket No. 98]. A hearing on the Motion was held on February 5, 2013 commencing at 10:00 AM (“Hearing”), and the Court having heard the arguments of counsel and the proffer of testimony of Mr. Dan Miler the appraiser, finds and orders as set forth below.

THE COURT FINDS THAT:

1. Its findings and conclusions set forth on the record at the Hearing are incorporated herein.
2. The Motion and Notice of the Motion were duly served according to the Bankruptcy Code and Federal Rules of Bankruptcy Procedure.
3. The Motion seeks authority to sell a parcel of real property located at 7237 Brycewood Circle NW, North Canton OH, permanent parcel no. 1618681 (“Residence”) free of the interest of any entity. The Debtor (acting in concert with his estranged wife Leslie Paxos who is a co-owner of the Residence) proposes to sell both the estate’s interest and her interest in the Residence for \$750,000.00 (“Proceeds”) on the terms and conditions set forth in the offer to purchase from CNAI Real Estate, LLC (“Buyer”) attached to the Motion as Exhibit A.
4. The Buyer is owned by the Debtor’s father who is an unsecured creditor of the estate. Buyer is purchasing the Residence in good faith, and the relationship of Buyer’s owner to the Debtor does not impair the fairness of the proposed sale to the estate. It is in the best interest of creditors of the estate that the sale be approved.
5. HSBC and Wells Fargo are owed in excess of \$1,280,018, which indebtedness is secured by first and second liens on the Residence, respectively, and which amount far exceeds the proposed sale price or any amount alleged by the Objections as being a possible fair market value of the Residence. Therefore the lack of marketing of the Residence by the Debtor is of no relevance to

the fairness of the proposed sale price as Wells Fargo consents to the sale at the proposed price. Marketing of the Residence will only delay the receipt of funds and might in fact result in a lower price for the Residence.

6. The proposed sales price is therefore fair and reasonable for the Residence.
7. HSBC and Wells Fargo consent to the sale of the Residence on the following terms and conditions: (1) the adversary proceeding styled *Christopher Paxos, Debtor in Possession v. HSBC Bank NA as Trustee, et al.* Adv. No. 12-6127 ("Adversary Proceeding") be dismissed without prejudice and (2) the sale proceeds net of transfer costs (such as recording fees and taxes) and real estate taxes ("Net Proceeds") be paid to HSBC at closing. The Debtor has agreed to these conditions.
8. The interests in the Residence that are judgment liens are in bona fide dispute.
9. The amounts owed to Wells Fargo and HSBC are in excess of the Net Proceeds and there is no need for any other adequate protection of any other interest in the Residence.

THEREFORE IT IS ORDERED THAT:

1. The Objections are overruled;
2. Debtor is hereby authorized to sell the Residence, free and clear of any interest of any entity other than the estate;
3. The Debtor shall dismiss the Adversary Proceeding without prejudice; and
4. The Net Proceeds will be immediately disbursed to HSBC upon the closing of the sale transaction to be applied against the indebtedness secured by its lien on the Residence.

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ECF SERVICE LIST

The following is a list of the parties who are on the list to receive e-mail notice/service for this case:
12-61280-rk Notice will be electronically mailed to the U.S. Trustee, and:

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